
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

ROBERT ANDREW MULLINS,

Plaintiff,

v.

INOVAR, INC., DOES 1-6

Defendant.

**MEMORANDUM DECISION AND
ORDER DENYING [21] MOTION
TO APPOINT COUNSEL AND
EXTENSION TO FILE AMENDED
COMPLAINT**

Case No. 4:20-cv-00109-DN

District Judge David Nuffer
Magistrate Judge Paul Kohler

Plaintiff filed a motion for leave to proceed *in forma pauperis*,¹ which was granted.²

Plaintiff filed his qui tam complaint (“Complaint”)³ along with three motions⁴ (“AG Motions”) requesting actions involving the Attorney General, which are dependent on the sufficiency of Plaintiff’s Complaint. Plaintiff was ordered to amend his deficient Complaint within 30 days (“Order”).⁵ Because the Plaintiff filed a notice of change of address (“Notice”)⁶ after entry of the Order, the Order was sent to his prior address and the clerk remailed a copy of the order to the updated address on February 23, 2021, just two days before his 30-day deadline to amend his Complaint expired.

¹ Application to Proceed in District Court without Prepaying Fees or Costs, [docket no. 1](#), filed Oct. 9, 2020.

² In Forma Pauperis Order, [docket no. 4](#), filed Oct. 29, 2020.

³ Quiet Tam Filed under the False Claims Act, [docket no. 5](#), filed Oct. 29, 2020.

⁴ Motion for Interlocutory Explicit Order to the Attorney General and the Department of Justice, [docket no. 6](#), filed Oct. 29, 2020; Motion to Order Attorney General Act, [docket no. 7](#), filed Oct. 29, 2020; and Motion to Have U.S. Attorney General Amend Complaint of Qui Tam Order, [docket no. 8](#), filed Oct. 29, 2020.

⁵ Memorandum Decision and Order to Amend Deficient Complaint, [docket no. 18](#), filed Jan. 26, 2021 (“Order”).

⁶ Notice of Address Change, [docket no. 19](#), filed Feb. 19, 2021.

On the same day Plaintiff filed the Notice, he filed a Motion for Appointment of Counsel (“Motion”).⁷ Generally, “there is no constitutional right to appointment of counsel in a civil case.”⁸ “The Constitution guarantees a right to counsel only in certain situations. In both criminal and civil cases, for example, litigants have a presumed right to counsel when they could lose their physical liberty if they lose the litigation.”⁹ “In proceedings where litigants are not directly threatened by a loss of physical liberty, a presumption arises against their right to appointed counsel.”¹⁰ The appointment of counsel in a civil case for an *in forma pauperis* plaintiff is discretionary.¹¹ Plaintiff is an *in forma pauperis* plaintiff and is not at risk of losing his physical liberty, as he is already an inmate at the Sanpete County Jail. Therefore, Plaintiff’s Motion is denied. Plaintiff’s AG Motions are also denied, as Plaintiff has not complied with the Order to amend his Complaint.

IT IS HEREBY ORDERED that:

- (1) Plaintiff’s Motion is DENIED;
- (2) Plaintiff’s AG Motions are all DENIED;

and

⁷ Docket no. 21, filed Feb. 19, 2021.

⁸ *Simon v. Grafton, Inc.*, No. CIV.A. 12-2796-JAR, 2013 WL 3580953, at *1 (D. Kan. July 12, 2013). See also *Nelson v. Boeing Co.*, 446 F.3d 1118, 1120–22 (10th Cir.2006) (noting that “the only context in which courts have recognized a constitutional right to effective assistance of counsel in civil litigation is in immigration cases”); *Sandle v. Principi*, 201 F. App’x 579, 582 (10th Cir.2006) (“There is no constitutional right to counsel in either a Title VII case or other civil case.”); *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir.1989) (“There is no constitutional right to appointed counsel in a civil case.”), *id.* at *1 n. 1.

⁹ *Garramone v. Romo*, 94 F.3d 1446, 1449 (10th Cir. 1996).

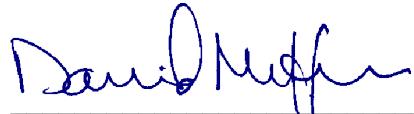
¹⁰ *Id.*

¹¹ 28 U.S.C. § 1915e (1996).

(3) Plaintiff is granted an extension to comply with the Order until April 2, 2021.¹² If Plaintiff fails to timely cure his Complaint according to the instructions in the Order, this action will be dismissed without further notice.

Signed March 8, 2021.

BY THE COURT



David Nuffer
United States District Judge

¹² Order.